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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/674,311	07/01/1996	OLUFUNMILAYO L. OLOPADE	ARSB/509	8112

7590 10/28/2002

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EXAMINER

ART UNIT PAPER NUMBER

DATE MAILED: 10/28/2002

2/c

Please find below and/or attached an Office communication concerning this application or proceeding.



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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER
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ART UNIT	PAPER
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35

DATE MAILED:

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**Commissioner of Patents and Trademarks**

This is a supplemental notice of defective appeal brief since a period for reply was not set out in the notice mailed October 17, 2002.

Appellant is required to comply with provisions of 37 CFR 1.192(c). To avoid dismissal of the appeal, Appellant must comply with the provisions of 37 CFR 1.192(c) within the longest of any of the following TIME PERIODS: (1) ONE MONTH or THIRTY DAYS, whichever is longer, from the mailing of this communication; (2) within the time period for reply to the action from which appeal has been taken; or (3) within two months from the date of the notice of appeal under 37 CFR 1.191. Extensions of these time periods may be granted under 37 CFR 1.136.

The appeal brief filed June 13, 2002 is defective. The appeal brief includes a newly presented declaration and neither presents the declaration separately, nor provides good and sufficient reasons why it was not earlier presented.


As provided in Section 1207 of the MPEP, it is clear that "A new amendment, new affidavit, or other new evidence must be submitted in a paper separate from the appeal brief. Entry of a new amendment, new affidavit, or other new evidence in an application on appeal is not a matter of right." Thus, when the appeal brief actually includes within it the new affidavit, the brief should be considered defective. In the instant appeal brief filed June 13, 2002, the declaration of Janet D. Rowley, M.D., has not been submitted in a paper separate from the appeal brief.

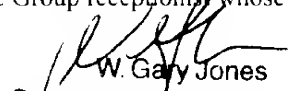
Moreover, the declaration will not be considered because good and sufficient reasons why it was not earlier presented have not been shown. As provided by 37 CFR 1.195, "Affidavits, declarations, or exhibits submitted after the case has been appealed will not be admitted without a showing of good and sufficient reasons why they were not earlier presented." No such statement has been provided in the instant application.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner Jeanine Goldberg whose telephone number is (703) 306-5817. The examiner can normally be reached Monday-Friday from 8:00 a.m. to 5:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Jones, can be reached on (703) 308-1152. The fax number for this Group is (703) 305-3014.

Any inquiry of a general nature should be directed to the Group receptionist whose telephone number is (703) 308-0196.

  
Jeanine Goldberg  
October 18, 2002

  
W. Gary Jones  
Supervisory Patent Examiner  
Technology Center 1600

**Notification of Non-Compliance  
With 37 CFR 1.192(c)**

Application No.

08/674,311

Applicant(s)

OLOPADE, OLUFUNMILAYO I.

Examiner

Jeanine A Goldberg

Art Unit

1634

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

The Appeal Brief filed on 13 June 2002 is defective for failure to comply with one or more provisions of 37 CFR 1.192(c). See MPEP § 1206.

To avoid dismissal of the appeal, applicant must file IN TRIPLICATE a complete new brief in compliance with 37 CFR 1.192 (c) within the longest of any of the following three **TIME PERIODS**: (1) **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer; (2) **TWO MONTHS** from the date of the notice of appeal; or (3) within the period for reply to the action from which this appeal was taken. **EXTENTIONS OF THESE TIME PERIODS MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☐ The brief does not contain the items required under 37 CFR 1.192(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, pending or cancelled, or does not identify the appealed claims (37 CFR 1.192(c)(3)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 1.192(c)(4)).
4. ☐ The brief does not contain a concise explanation of the claimed invention, referring to the specification by page and line number and to the drawing, if any, by reference characters (37 CFR 1.192(c)(5)).
5. ☐ The brief does not contain a concise statement of the issues presented for review (37 CFR 1.192(c)(6)).
6. ☐ A single ground of rejection has been applied to two or more claims in this application, and
  - (a) ☐ the brief omits the statement required by 37 CFR 1.192(c)(7) that one or more claims do not stand or fall together, yet presents arguments in support thereof in the argument section of the brief.
  - (b) ☐ the brief includes the statement required by 37 CFR 1.192(c) (7) that one or more claims do not stand or fall together, yet does not present arguments in support thereof in the argument section of the brief.
7. ☐ The brief does not present an argument under a separate heading for each issue on appeal (37 CFR 1.192(c)(8)).
8. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 1.192(c)(9)).
9. ☒ Other (including any explanation in support of the above items):

See attached PTO-90